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THE FREQUENCY AND DURATION OF PARLIAMENTS

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When the British parliament passed a vote extending the life of the existing house of commons, whose duration would otherwise have terminated in January, 1916, their action attracted little attention and aroused but slight opposition. The forces of the empire, engaged in a desperate war, must not be dissipated by an appeal to the people, with the consequent evils of electioneering. Yet to the student of politics this action has a profound interest. One of the cardinal features of the legislation of 1911 had been the quinquennial duration of parliament—a provision which, as the debates show, was essential to the whole compromise. Yet in an unforeseen crisis, the legislature by its own resolution could provide an extension of its life, and thus postpone the date of accountability to the people. No political measure could furnish so striking a test of the flexibility of the British system, its adaptibility to emergencies, and its reliance upon a practically omnipotent legislature.

In this paper we shall trace the principal statutes which limit the parliamentary term and the intervals between parliamentary sessions. There are five such laws, each bearing a date full of significance in English constitutional history. The first three statutes, passed in 1641, 1664, and 1694, were triennial acts, though in different senses; the fourth statute, passed in 1716, was the familiar septennial act under which parliaments were so long regulated; the last permanent legislation on the subject was the parliament act of 1911 fixing a five-year maximum duration, and it still remains law though temporarily suspended in 1916.

A search of early English law reveals an ancient liking for annual parliaments. By a statute of 1330 it was provided "that

a Parliament shall be holden every year once, and more often if need be."¹ The same provision was reënacted in 1362. Although these laws were not strictly enforced, yet they served to establish a tradition in favor of frequent parliaments, and in the debates concerning the later acts, as well as in the statutes themselves, we find frequent reference to the "ancient laws and customs."² Many an English statute has been roused to life after lying dormant for centuries, and many laws which have long been dead letters may be used as potent arguments in a time of heated discussion. It was so with regard to the old ineffective laws concerning the frequency of parliaments; hence they deserve in this study at least a passing notice.

To explain the unusual provisions of the triennial act of 1641, we must recall the situation confronting the king and the two houses when the Long Parliament began its remarkable career.³ The significant thing was not merely that royal abuses impossible to English forbearance had gone unchecked during the eleven years of personal rule on the part of Charles I; not merely that ship money, forced loans, and other preposterous schemes had displaced constitutional taxation; that the church establishment under the absolutist Laud was confronting English individualism and the growing religious sense with the menace of uniformity and the exaltation of the formalities of worship; that foreign affairs had been bungled, while Scotland and Ireland had been bitterly antagonized. The important thing was that in the mind of the average parliamentarian these outrages were asso-

¹ 4 Ed. III, c. 14. The quotation comprises nearly the entire statute.

² 36 Ed. III, c. 10.

³ The Short Parliament, which met in April, 1640, had been abruptly dissolved after three weeks of bickering with the king over grievances. In a lengthy declaration justifying the dissolution, the king complained of the "undutiful and seditious carriage" of the parliamentary leaders, denounced their manner of bargaining and contracting for the remedy of grievances by refusing supplies, and expressed a deep repugnance towards their insistent demands for reducing the revenues and curtailing the prerogatives of the crown. This speech of the king serves as a fair statement of the vital issue between him and the parliament. *Parliamentary Debates*, II, p. 573.

ciated with a long intermission of parliament.⁴ Over and above the measures of specific reform, such as the acts denying the royal power to levy tunnage and poundage, abolishing the court of the star chamber and the high commission, forbidding ship money, restricting the royal forests and doing away with the distraint of knighthood, there was a demand for a general measure which would still further tie the king's hands by preventing the recurrence of a like season of unrepressed royal control. It was exactly with this purpose in view that the triennial act, designed to insure the automatic meeting of parliament at stated times, independently of the king's will, was passed.

This act "for the preventing of inconveniences happening by the long intermission of parliaments"⁵ recited in the preamble that by the "laws of the realm"⁶ parliament ought to be held once a year for the redress of grievances; that the appointment of the time and place for these sessions "hath always belonged as it ought to His Majesty and his royal progenitors," and that mischiefs result from the infrequent holding of parliaments. To secure frequent sessions rigorous measures were accordingly prescribed.

If, by prorogation, adjournment, or dissolution, parliament should fail to meet before September 10 of the third year after the close of any session, then the lord chancellor and the lord keeper of the seal were required to issue the necessary writs of election to the boroughs, cities, counties, etc., "without any further warrant or direction from His Majesty, his heirs, or suc-

⁴ As to the English abhorrence for an intermission of parliament, we may note the practice by which the same royal proclamation dissolves one parliament and summons its successor, the king, with the advice of his ministers, determining the dates of the dissolution and the next assembling. On this point Frederick Harrison writes: "The mediaeval rules about dissolutions and elections, with the obsolete jealousy of the crown which forces both into one royal proclamation, cause nothing but trouble and serve no useful end. The superstition that the British constitution, like nature, 'abhors a vacuum,' and insists on the formula—*Le Parlement est mort—Vive le Parlement!*—is hardly worthy of the twentieth century." *Realities and Ideals*, p. 259.

⁵ The act is dated February 15, 1641. *Statutes of the Realm*, V. 54; 16 Car. I, c. 1.

⁶ The reference here is to the acts of Edward III's reign, above mentioned.

cessors." These officers were to promise on oath to issue the writs. A failure to do so, besides "incurring the grievous sin of perjury," carried with it the penalty of removal from office and such other punishment as parliament might inflict.

In case the lord chancellor and the lord keeper should fail to issue the writs, then this function might be performed by any twelve peers meeting in the old palace of Westminster, in which case the writs should be "attested under the hand and seals of twelve or more of the said peers." The clerks of the petty bag and all other clerks whose duty it was to prepare election writs were required under penalty to do so at the command of the lords so assembled. Writs so prepared were to be of equal force with those issued under the great seal of England, and messengers were required under penalty to deliver the writs as directed.

In the event of the failure of the peers to issue the summons, then the sheriffs were to proceed with the elections, and finally as if to cover every human contingency, the act provided that if the sheriffs should fail to call the elections, then the freeholders of the counties, the masters and scholars of the universities, and the citizens and others having suffrage rights should proceed to hold elections as usual without further warrant, and their returns should be accepted as official.

No parliament was to be dissolved or prorogued within fifty days of its meeting without the consent of the king and the two houses. Neither house was to be adjourned within fifty days without its consent. All the parliaments assembled under this act and all members thereof were to have all the "rights, privileges, jurisdictions and immunities" possessed by parliaments summoned by writs under the great seal of England.⁷

The above are the provisions of the triennial act in its final shape. We may now turn to the story of its passage.⁸ On December 24, 1640 Strode introduced in the commons a bill for

⁷ Note that the act did not provide for triennial elections, nor did it limit the duration of parliament. It was concerned with the frequency of parliamentary sessions.

⁸ *Commons Journal*, II, pp. 58, 60, 70.

annual parliaments.⁹ On the 30th it was referred to a committee including Strode, Pym, Hampden and Cromwell, and in the committee stage the bill was changed so as to provide for triennial instead of annual parliaments. At the time of its passage in the commons, (January 20) the bill joined hands with a revenue measure for the relief of the king's army in the north—its companion for the remainder of the journey through parliament. This combination of money grant with constitutional redress was habitual with the parliaments of this troubled time.

While these bills were under consideration in parliament, the king, evidently worried because of the radical measures which the leaders were undertaking, commanded both houses to come to him at Whitehall and lectured them regarding the "distractions of the government." After referring to certain dangers which needed attention, and declaring his purpose touching some of the measures then pending, he discussed briefly two proposed laws to which he could not assent, the denial to the bishops of a voice in parliament, and the triennial bill. Having disposed of the question of the bishops he continued:¹⁰

"There is but one other rock, and that not in substance but in form, yet that is so essential that except it be reformed it will mar the substance. There is a bill given for frequent parliaments; the thing I like, that is, to have often parliaments, but to give power to sheriffs and constables and I know not whom to do my office, that I cannot yield unto. But to show you that I am desirous to please you in forms which destroy not the substance I am content you shall have an act for this purpose, but so reformed that it neither intrench upon my Honor nor that inseparable right of the crown concerning parliament."

After this lecturing the houses resumed their work, and so far as the triennial bill was concerned the speech had practically

⁹ This bill originally provided that if in every year the king had not issued writs for the elections before the first Tuesday in Lent, the returns were to be made without the usual intervention of the crown. This would have meant annual elections, as well as annual parliaments, and Charles would never have consented to such a measure. See Gardiner, *History of England from the Accession of James I to the outbreak of the Civil War, 1603-1642*, IX, pp. 252-253.

¹⁰ *Parliamentary History*, IX, pp. 170-171. (The speech is dated January 25.)

no effect except perhaps to induce a greater degree of care in order to secure the royal assent. The companion bills, slightly altered in the house of lords, were submitted to the king on February 15, backed by a deputation from both houses urging his approval.¹¹ The curt response was that the king's pleasure would be made known on the morrow. Accordingly, on the 16th, the king came to the house of lords, and "being seated on his throne, the lords in their robes, and the commons with their speaker in attendance," the title of the triennial bill was read and the king briefly announced his assent.¹² His remarks indicated that he regarded this action as a gracious concession.¹³ He expressed trust in the parliament, but his mind was evidently distressed with fears for his prerogative, and his reluctant assent had no more than a merely formal significance. Even so, the passage of the act was made the occasion of elaborate celebration. The two houses sought an audience with the king that they might express their thanks, and were received in the banqueting-house at Whitehall for the purpose. A flattering vote of thanks was read,¹⁴ and the passion for celebration was gratified by bonfires and the ringing of bells throughout the city. How these marks of popular rejoicing must have affected Charles we can only imagine.

Such were the main incidents connected with the passage of the triennial act of 1641. Its purpose is apparent. The revolutionary Long Parliament with the king at their mercy and with a burning sense of abuses long unchecked, proceeded to establish

¹¹ *Commons Journal*, II, pp. 85-86.

¹² *Parliamentary History*, IX, pp. 178-182.

¹³ Charles's conciliatory attitude can hardly be regarded as anything more than an indication of his helplessness. He was too much of a Stuart to acquiesce in so radical a measure without extreme reluctance, yet his position was so weak that at least temporary conciliation was the only course possible. It is interesting to compare this rather complacent speech of Charles with his vigorous proclamation in 1629 on the memorable occasion of his dissolution of parliament. Then he had declared: "We have showed by our frequent meeting our people our love to the use of parliament; yet the late abuse having for the present driven us unwittingly out of that course, we shall account it presumption for any to prescribe any time with us for parliament." There is no reason to believe that the king's intentions, as indicated by this speech, had been altered by 1641.

¹⁴ *Commons Journal*, II, p. 87.

such limitations of the royal prerogative as would make the house of commons the supreme authority in England. To this end the very process of summoning parliament was made independent of the king. The only step which was still needful to make secure the supremacy of this audacious parliament (a step, however, not comprehended within the legitimate motives behind the triennial act), was taken in May 1641, when it was enacted that the existing parliament should not be dissolved or prorogued without its consent.¹⁵ Control thus passed completely into the hands of the leaders of the commons, and the basis for a new tyranny—the tyranny of a parliament under a military dictator—was laid.

For twenty-three years the triennial act of 1641, with its guarantees of parliamentary independence, continued as law. The fact that its extreme provisions were never put into operation was due to the revolutionary character of the times. With the Restoration, however, the government of England by king, lords and commons was reinstated, and royalty in the abstract aroused enthusiasm among the majority (at least) of the Cavalier parliament.¹⁶ Hence the very thought of a measure so derogatory to the royal prerogative as the triennial act remaining on the statute-books was offensive. Furthermore, the act belonged to the “age of heroics,” to use Fletcher’s apt phrase, whereas England had now passed into the “age of common sense.”¹⁷

¹⁵ 16 Car. I, c. 7.

¹⁶ The ultra-royalist character of Charles II’s Long Parliament should not be overemphasized. According to the important Anglican writers of the period, as for instance Clarendon, the insignificance of the opposition in this “cavalier” and “servile” parliament would seem a plausible justification for many of the extreme measures passed, particularly against non-conformists. But taking this view we are at a loss to explain a peculiar fact revealed in the records—namely, that the votes on all the important government measures show a strong opposition which at times exceeded a third of the total membership of the commons. For an example of Clarendon’s reference to the numerical strength of the Presbyterian party, see Clarendon’s *Life* (Oxford ed., 1759), p. 153, and compare W. C. Abbott, The long parliament of Charles II, *English Historical Review*, XXI, pp. 21–56.

¹⁷ C. R. L. Fletcher, *An Introductory History of England, 1660–1792*, pp. 1–2.

When the parliament convened on March 16, 1664,¹⁸ a speech from the throne warmly recommended to them the repeal of the triennial act. The king was surprised that parliament had not considered the "wonderful clauses" in the bill, "which passed in a time very uncareful for the dignity of the crown or the security of the people." "I pray, Mr. Speaker," said he, "and you gentlemen of the house of commons, give that triennial bill once a reading in your house; and in God's name do what you think fit for me and yourselves and the whole kingdom. I need not tell you how much I love parliaments; never king was so much beholden to parliaments as I have been; nor do I think the crown can ever be happy without frequent parliaments. But assure yourselves, if I did think otherwise, I would never suffer a parliament to come together by the means prescribed by this bill."¹⁹

In these words, which we know to have had great weight in the parliament, we can see the principal motive for the repeal—namely, the desire to save the royal prerogative, and to fulfill Charles II's wish. Another motive, however, was shrewdly hinted at in this speech. Some, said the king, had fancied by a "computation of their own upon some clause in the triennial bill, that the present parliament was at an end some months since." The Cavalier parliament in the spring of 1664 had been in existence for three years, and the impression seems to have been widespread that according to the triennial act it must terminate at the end of its third year. This was clearly a miscon-

¹⁸ An unsuccessful attempt to effect the repeal was made in the first parliament of Charles II. On April 3, 1662 the proposition for unconditional repeal was discussed, and a repeal bill was ordered to be brought in, a committee of three being directed to prepare the bill. The only open opposition was a vigorous speech in the commons by Vaughan, who later became speaker of the lower house. He was surprised at the haste with which the repeal was being rushed through. The triennial act seemed to him salutary, and the "non-sitting of parliaments" would, he feared, produce mischievous results. In place of an unconditional repeal he would propose a compromise bill which would retain the provision for triennial parliaments, but remove such clauses in the existing act as were thought to be disrespectful to the king. The suggestion was not acted upon at the time, and the session closed with the triennial act still nominally in force. *Commons Journal*, VIII, p. 395; *Calendar of State Papers, Dom.* 1661-2, p. 330.

¹⁹ *Parliamentary Debates*, IV, pp. 290-291; *Lords Debates*, I, pp. 67 fol.

ception; the act provided that the interval between parliaments should be no longer than three years, but there was no clause restricting the life of a parliament to three years. No parliament under existing law was liable to dissolution as long as the king lived, unless he chose to dissolve it. The fact, however, that the wrong impression existed in the popular mind made it seem more necessary to repeal the law. Such a misapprehension need not be a source of wonder when we reflect that so famous a writer as Hallam falls into the same error in his discussion of the triennial act.²⁰

The repeal bill proceeded through parliament with only slight opposition.²¹ It reached the first reading in the commons on March 23, and passed on the 28th; the lords agreed to it on the 31st, and it received the royal assent April 5.²² At the time of its commitment the commons resolved to caution the committee

²⁰ Hallam, *Constitutional Hist.*, I, p. 515. Fletcher, (*Introductory Hist. of Eng.*, III, p. 20) a careful though vivid writer, in stating that the triennial act was repealed in 1664 "in order to prevent the necessity of a *new* parliament being called every three years" fails to add that this involved a misconception of the provisions of the act of 1641. An act may be "triennial" in several senses. It may provide triennial elections with or without annual parliaments, or it may fix a maximum triennial duration, or it may simply set a three-year period as the longest interval between parliaments. It was the last of these courses that was followed in the triennial act of 1641. It did not require a new parliament every three years. It dealt not with the duration of parliaments, but merely with their frequency.

²¹ The debates are not reported in Hansard, nor in Chandler's *Commons*, and do not seem to have been memorable. According to Pepys there were many in the commons displeased with the bill, though they dared not say much. By the same authority we learn of three vigorous speeches against the bill. Mr. Prin compared the bill to "the idol whose head was of gold and his body and legs of different metal," and it cannot be denied that the measure contained contradictory elements. Sir Richard Temple spoke "very discontentful words in the House about the bill." Also Vaughan, who in 1662 had opposed the repeal, now declared himself "in a speech of an hour and a half with great reason and eloquence against the repealing of the bill . . . but with no success." There are indications that under the surface there ran a rather strong current of opinion against the bill. On the day of its passage Pepys exclaims: "But Lord, to see how the best things are not done without some design, for I perceive all these gentlemen that I was with today were against it." He then suggests that it was passed to satisfy the king, "and should he demand anything else, I believe they would give it him." Pepys, *Diary*, March 26, 28, 1664.

²² *Commons Journal*, VIII, p. 537.

"that there be no clause in the bill of coercion on His Majesty for the calling of parliaments, other than there is for the execution of other laws."

That the repealing statute²³ was itself a measure for triennial parliaments (thus adhering to the central purpose of the original act) is shown in the title which read: "An act for the assembling and holding of parliaments once in three years, at the least, and for the repeal of an act for the preventing of inconveniences happening from the long intermission of parliaments." The preamble²⁴ declared that the act of 1641 was "in derogation of His Majesty's just rights and prerogative inherent to the imperial crown of this realm, for the calling and assembling of parliaments, and may be an occasion of manifold mischief and inconvenience and much danger to the peace and safety of His Majesty and all his liege people of this realm." After declaring the repeal, the statute continued, as if addressing the king: "Within three years after any parliament, your Majesty (heirs or successors) *do issue out your writs* for the calling of elections to the end that there may be a frequent calling, assembling and holding of parliaments once in three years at the least." The mild expression "your Majesty do issue out your writs" contrasts beautifully with the vigorous wording of the original statute.

For this easy compliance of his parliament the king was highly grateful. "Every good Englishman," said he, "will thank you for it. For the act you have repealed could only serve to discredit parliaments and to make the crown jealous of parliaments and parliaments of the crown, and persuade neighbor princes that England was not governed under a monarch. It could never have been the occasion of frequent parliaments." Continuing, he pledged himself to be "not an hour the less without parliament"²⁵ for the act of repeal. In his concluding outburst of

²³ 16 Car. II, c. 1.

²⁴ Lyddal, in the debate on the septennial bill in the commons, referred to this as a "very remarkable preamble." *Parliamentary Debates*, VII, p. 311.

²⁵ This is the reported wording. The king probably meant to say the very opposite. Chandler's *Commons*, I, pp. 75-76.

confidence he declared: "I am confident that you and I who agree in the end will never differ in the way."

One other point in connection with the repeal remains for our notice. The sequel to the act throws an interesting light on the sincerity of Charles II's speeches. The king's assurance that parliaments should be no less frequent because of the repeal might mean a good deal or it might mean nothing. In Charles's mind it probably represented no binding pledge, but to the parliament it must at least have signified that the king could be relied upon to carry out the mildly expressed mandate for issuing writs after three years' intermission. As a matter of fact during the last four years of his reign Charles ruled without a parliament. In this transitional period the relation between crown and parliament was not clearly fixed, hence this overriding of the statute was tolerated. The royal prerogative still represented an actual power.

When the duration of parliament was next altered, the revolution had brought its constitutional changes, and parliament was now supreme. The triennial act of 1694 followed no extreme course; it neither yielded to nor attempted to override the king's will, but manifested a temper more in keeping with the normal principles of English law.

By glancing at the party divisions of William III's reign we observe that the Whigs and Tories were not clearly defined parties, but each was split into factions. Both had united, though with different motives, to bring about the revolution. The issues following close upon the revolution were such as to cause a shifting of party lines and the controversies between Whigs and Tories were at times less significant than the differences which arose within the parties. The careers of such men as Marlborough and Halifax illustrate well the ease with which public men of the time shifted their political allegiance.

It was to the Whigs that William at first looked for support. They had been responsible for the successful resistance to James II, and had made possible the enthronement of William. It was no part of their program, however, to strengthen the royal prerogative. Above all their party creed called for the preserva-

tion of the constitutional theories established by the revolution, and this meant the supremacy of parliament. This fact was well revealed by the attitude of the Whig majority of the Convention parliament of 1689 on the mutiny act. In order to make parliament supreme the authorization to use the power of court-martial over the army was limited to one year, so that annual parliaments should become necessary for the yearly renewal of the grant. Appropriations were similarly limited, and since the revolution these two "grants" have been annual.

The problem of preventing a long intermission of parliament had now been solved. By the device of the mutiny act and the annual grant of supplies there was quietly added to the body of English constitutional principles the rule that parliamentary sessions must henceforth be annual. No longer need the country fear such an interruption of the legislative function as that which had so exasperated the people during the time of Charles I, and which to a less degree had menaced popular liberty under Charles II. Another problem of perhaps equal importance, however, was still to be solved—how to prevent a king from retaining a parliament to his liking long after it had ceased to be in harmony with popular opinion. Not the interval between parliaments, but the length of life which should be allowed to a single parliament, was the point to be determined. The fact that in each case the laws are referred to as "triennial acts" may be somewhat misleading unless this distinction is understood.

William's second parliament, which met March 20, 1690, was composed chiefly of Tories. The division between the parties was so close, however, and there was so little stability in their relative strength, that a few absences, or the failure of a few proxies, might at any time turn the scales one way or the other. The Whigs as a body were less in sympathy with the king than they had been earlier in the reign, and were sure to take advantage of an opportunity to limit the prerogative. The Tories were divided between the courtiers who stuck close to William and the opposition Tories, among whom Halifax and Mulgrave were conspicuous leaders. There existed, moreover, a hostility between the two houses which seriously affected legislation, and

led to votes which could not at all be explained with strict reference to the merits of the questions involved.

To these complications, which might easily give an unexpected turn to such a piece of legislation as the triennial bill, there was added another element, namely the place bill. Since the king's influence depended largely on his power to bestow lucrative positions upon his supporters in parliament, the opposition had brought in a bill to prevent members elected after the first of the following January from accepting office under the crown. Certain of the tory supporters of William had argued in the debate against this bill that its passage would induce the king to continue indefinitely a parliament in which his pensioners for the time being constituted so powerful a factor. Unwittingly they thus committed themselves to the view that a prolongation of the existing parliament for such a period as the king might desire would be a serious grievance. Taking advantage of this admission, the opposition leaders presented²⁶ in the house of lords a bill limiting the duration of parliaments. The author of this bill was Lord Shrewsbury, the "most distinguished of those Whigs who were then on bad terms with the court."²⁷ Shrewsbury's bill,²⁸ of which the original draft is preserved, bore the vague and misleading title: "An act for the frequent meeting of parliaments."²⁹ As presented, it provided for annual in-

²³ January 12, 1693.

²⁴ Macaulay, *Hist. of Eng.*, (1856 ed.) IV, 274.

²⁵ Shrewsbury's bill had provided for annual parliaments, but this provision was given up, and instead it was enacted that a parliament should be held once in three years at the least. This change from annual to triennial sessions might seem to signify more than it does. It was probably thought that annual parliaments were sufficiently assured by the mutiny act, and the appropriation clauses in the yearly bills of supply. In that case, this clause of the triennial act was without much significance. See Hallam, *Constitutional History*, II, p. 202.

²⁶ *Historical Manuscripts Commission, Report*, XIV, pt. vi, pp. 299-302. The editorial comment in this report is worth quoting: "Comparing this bill with the acts of 1640 (new style, 1641) and 1664, it is interesting to note how the different senses in which each of them was 'triennial' reflects the prevailing political feeling of the time. The act of Charles I provided for the yearly holding of parliament, and was triennial in that it compelled the assembling of parliament if not summoned for three years. That of the Restoration left the king's

stead of triennial parliaments. A new parliament was to be summoned every year, and a compulsory clause required the lord chancellor to issue the writs in default of direction from the crown. After a thorough recasting in the committee of the whole house the bill provided that a new parliament should sit every three years, that there should be no compulsory means of summoning, and that a time be set for the existing parliament to terminate.

The progress of the bill through the two houses illustrates well the complication of motives which it aroused. Macaulay thus explains the practical unanimity among the peers in favor of the bill.³⁰

"William in vain endeavored to induce those peers in whom he placed the greatest confidence to support his prerogative. Some of them thought the proposed change salutary; others hoped to quiet the public mind by a liberal concession; and others had held such language when they were opposing the place bill that they could not without gross inconsistency oppose the triennial bill. The whole house, too, bore a grudge to the other house, and had a pleasure in putting the other house in a most disagreeable dilemma."³¹

hands free as to annual sessions, and was triennial in 'beseeching' him to summon parliament at least once in three years. The present bill, while reverting to annual sessions, is triennial only in limiting the duration of parliament to three years, thus being directed to an abuse of power not by the crown, but by parliament itself." *Ibid.*, preface, p. xv.

³⁰ Macaulay, *Hist. of Eng.* (1856 ed.), IV, p. 274.

³¹ One of the speakers in favor of the bill was Lord Halifax, a malcontent Tory who had formerly been one of the king's ministers, but had become identified with the opposition. "Is this a parliament, or a party?" he asked. "If the first, why fear another? If the last, is there anything to be said for it?" He considered it strange "to fear that for which the revolution was principally undertaken." The bill seemed to him the only remedy against two serious evils—the evil of governing without a parliament, and that of modeling a standing parliament. As to the argument that new experiments were unseasonable while the war lasted, it was baseless, for was not the true constitution of England to be called a new experiment? A war and a parliament which seemed agreed to continue one another furnished, indeed, a precedent for any king. In answer to the contention that the enactment of the bill would justify the scandal of corruption in the existing parliament, he declared that nothing would support the scandal so much as the continuation of the parliament. He ingeniously remarked

In the lower house the bill provoked great exasperation. The arguments against it touched not so much on the merits of the question as upon the special circumstances connected with the presentation of the bill at that time. These circumstances made the bill seem like a bitter dose even to those who favored its principles. The lords, whose seats would not be affected, were calmly originating a measure which would seriously encroach upon the authority of the commons. Not only were they usurping a function which the commons alone should exercise, but they were basely seeking popularity by a measure which would cost them nothing, but would cost the house of commons and the crown dear.

This resentment, however, could not outweigh the desire to pass a popular measure and to remove the scandal which hung like a cloud over the assembly. Supported by the Whigs as a body and by an element in the Tory party, the bill withstood the strenuous efforts of the court to defeat it. It passed the commons by a vote of 200 to 161 with an amendment extending the existing parliament to March 24, 1694. To this amendment the lords agreed, and the bill was presented for the king's assent.

William (though a monarch by parliamentary title, not divine right) was jealous of his prerogative, and the triennial bill was very distasteful to him. He delayed his decision, and besides consulting his ministers who advised in favor of the bill, he sent for the opinion of Sir William Temple,³² then living in retirement. Temple, through his secretary, strongly urged the passage of the bill, emphasizing the disasters of the Long Parliament which would never have taken place had such a law as the triennial act been in force. The arguments failed to move William, however, and just before the prorogation it was announced that the royal assent was withheld.

that in many minds the only reason for keeping this parliament would be that the government might not be put to the repeated expense of making new friends. (For the original notes, of which the above is a paraphrase, see Foxcroft, *Life and Letters of Saville*, II, p. 162.)

³² Temple's secretary, sent to present the statesman's views to the king, was Jonathan Swift, then a young man of about twenty-five years. As described by Macaulay, this is a fascinating incident in Swift's early life.

Two unsuccessful attempts during the year 1693-4 were made to carry the triennial bill.³³ The next session proved a more fortunate one for the measure,³⁴ for this time William gave his consent.³⁵ He was greatly depressed by the illness of his queen, who died soon after, and seems to have decided to conciliate the Whigs with whom he had been out of harmony for some years. A grant of tunnage accompanied the measure, hence Burnet suggests that the triennial bill was, by express bargain, the price of supply. It has been remarked as fortunate that the bill was presented at the time of the queen's illness, since this undoubtedly affected William's action, while at the same time it obscured the fact that he was yielding to necessity in giving his approval.

According to the act of 1694³⁶ writs were to be issued under the royal authority within three years at the farthest from the termination of any parliament, though as we have seen, the effective practice in favor of *annual* parliaments had now been definitely assured. No parliament was to continue longer than three years (this was the important provision) and the existing assembly was to be dissolved on November 1, 1696, or sooner if their Majesties should see fit. Another constitutional reform had successfully weathered the storms of parliamentary and royal opposition.

Perhaps no statute illustrates so well the extreme reach of parliamentary authority as the septennial act of 1716, passed under exceptional circumstances by a parliament which deter-

³³ In the first attempt, which was made in the commons, the bill, after passing its third reading without division, was defeated on the final vote by an unexpected temporary ascendancy of the opponents of the measure. Lord Monmouth (Whig) then brought in practically the same bill in the lords. It was passed and sent to the commons, but animosity against the patrician order prevailed, and the bill was rejected, 197 to 127. *Commons Journal*, X, p. 40. (December 22, 1693.)

³⁴ On November 19, seven days after the opening of the session, the commons ordered Mr. Harley to prepare a bill for the frequent meeting and calling of parliaments. It was carried with dispatch through both houses. Its first reading in the house of commons occurred November 22; its passage, December 13. On the 18th the lords gave it their concurrence without amendment, and it was submitted, together with the bill for the grant of tunnage, to the king for his assent. *Commons Journal*, II, p. 172, 187.

³⁵ *Commons Journal*, II, p. 193. (December 22, 1694.)

³⁶ 6 & 7 Will. & Mary, c. 2.

mined for the good of the country (and the interest of the Whigs) to extend its own term four years beyond that to which existing law entitled it, and for which it had been chosen by the constituencies. In the period from 1694 to 1716 party rivalry had been keen. During the greater part of the reign of Anne, the Whig power had been predominant, but there were frequent fluctuations in party strength, and neither party had been sure of maintaining control long enough to carry partisan measures of importance. The Whigs, as the special champions of the continental war and the Protestant succession, regarded themselves as the preservers of the honor and safety of England. At critical times the Tories had been strong enough to control the administration. Their half-hearted support of the war, their attempt to secure permanent power (*e.g.*, by the occasional conformity bill), and the known sympathy of many of them with the cause of the Pretender, greatly alarmed the Whigs and gave substance to the dread of Jacobitism and Toryism even after these names had ceased to stand for any considerable power in England.

The year of the accession of George I, 1714, marks a radical change in the course of party history in England. The Toryism of the seventeenth century practically died out with the advent of the first Hanoverian ruler, and a long period of Whig supremacy followed, which continued till the colonial and foreign policies of the eighteenth century gave rise to new issues. The first general election of George I's reign brought in an overwhelming Whig majority, and the two principal Tory leaders, Bolingbroke and Ormonde, fled to the continent to associate themselves with the Stuart pretender.

In the fall of 1715 occurred the ill-fated attempt to place the Chevalier de St. George on the English throne. The expedition had no foreign support whatever, and aroused but little enthusiasm in Scotland, and less in England. The Earl of Mar and the Pretender himself had none of the qualities of leaders, and the uprising was easily put down after two engagements at Sheriffmuir and Preston. Although the country showed little or no enthusiasm on personal grounds for George I, yet the cause

of the Protestant succession was dear, and Jacobite sentiment was weak and scattered.

This feeble and harmless rebellion was the occasion that gave rise to the septennial act. On April 10, 1716, the Duke of Devonshire introduced the bill for septennial parliaments in the house of lords.³⁷ He supported it by a speech in which he deplored the inconveniences of triennial elections which served only to "keep up party divisions and to raise and foment feuds and animosities in private families," which occasioned "ruinous expenses" and gave a "handle to the cabals and intrigues of foreign princes." "Though the rebellion was happily suppressed, yet," he declared, "the spirit of it remained unconquered, and seemed only to wait for an opportunity to show itself with more violence." The election of a new parliament, which according to the triennial act was not far off, was to occur at "the most favorable juncture the disaffected could expect," therefore he thought it "absolutely necessary to deprive them of it." We have in these few words of Devonshire a frank statement of the motives behind the septennial bill. Its purpose was to keep in power a ministry and a parliament which dreaded, no doubt with all sincerity, the danger of an election at a time when the country was so distracted as a result of the late riots and rebellion. The next election, to be sure, would not have come till a year from the following fall (1717) but it was thought necessary to foil the opposition by taking away at once an opportunity which they anticipated, and on which they might build hopes and plans.

Devonshire's bill (which is the same as the final statute except that the number of years was left blank) was nearly all preamble, and its enactments were reduced to a small paragraph. It is entitled,³⁸ "An act for enlarging the time of continuance of parliaments, appointed by an act made in the sixth year of the reign of King William and Queen Mary entitled 'an act for the frequent meeting and calling of parliaments.' " The preamble in enumerating the reasons for a new law closely followed the points of Devonshire's speech, and paid its respects to the "rest-

³⁷ *Parliamentary Debates*, VII, pp. 294-295.

³⁸ I Geo. I, *Stat.* 2, c. 38.

less popish faction" which was threatening public security. It was therefore to be enacted that all parliaments including the existing one were to "have continuance for *seven*³⁹ years," unless sooner dissolved by his Majesty.

The serious character of the bill is attested by the long and spirited debate which it aroused.⁴⁰ The supporters of the measure justified their position chiefly by denouncing frequent elections and playing up the danger of an approaching contest at the time. Elections caused great heats. "When party healths go round," declared the Earl of Ilay, "the naming of one general before another often produces a bloody quarrel; and, which is far worse, the sacred name of the church is impiously profaned in the streets and joined with treason." The bribing of corporations and the subjection of the constitution to the caprice of the multitude were rather inconsistently classed together as abuses characteristic of the existing system. It was urged that alliances would be formed with more confidence "if it was seen that the government was not precarious." The revolution, it was argued, was only temporarily checked, the Jacobites were as insolent as ever, and England must at all hazards be saved from the clutches of this monstrous popish faction.

Those who spoke against the septennial bill rested their case chiefly on constitutional grounds, and the weight of real argument was clearly on their side. Such a measure, they contended, would overthrow the constitution. The house of commons would cease to represent the people, and instead of allaying the rebellion the act would rivet the disaffected in their prejudices against the government. If so radical a remedy were applied because of a slight rebellion, then there could be no guarantee that the same

³⁹ Filled in by the lords after debate.

⁴⁰ Upon the question of commitment the lords debated for five hours, and another debate of two hours arose when the bill was reported from committee. The Earls of Dorset and Ilay and the Duke of Newcastle gave the most significant speeches for the bill, while Lords Trevor, Buckingham, Aylesford and Nottingham opposed the measure. *Parl. Deb.*, VII, pp. 299-307. After the bill passed the upper house some of the Lords who dissented from its provisions presented a written protest, setting forth the reasons for their opposition. *Ibid.*, p. 306. In the house of commons the most notable speech was that of the Tory Shippen, against the bill. *Ibid.*, pp. 312-321.

means should not be advanced later to justify a still further extension of the rule of the existing parliament. Experience showed that long parliaments were pernicious and subversive of liberty, whereas the triennial act afforded to the people the opportunity to remedy the abuse of corruption. To pass the bill would be to imply that the gentlemen of Great Britain were not to be trusted in a new election, and for the commons to accept such a bill from the lords was plainly inconsistent with their honor. The only authority of the existing parliament was derived from the triennial act—a measure secured as a product of the revolution, a concession from William to his subjects which ought not to be repealed. The existing ministry, moreover, so far from being the object of trustful care, should be jealously watched.

It is quite common in modern parliamentary bodies for a lengthy debate to produce little effect on the final vote. The motives of the speakers prompt the arguments, especially where personal and party interests are involved, whereas the supposed purpose of having a deliberative body is, in some way, to allow arguments to affect motives. The final votes on the septennial bill (69 to 36 in the lords; 264 to 121 in the commons) showed little evidence of being based on intelligent deliberation. Most of those who favored the measure were officers in some capacity under the crown.

In spite of the grave apprehensions aroused at the time of its passage, the septennial act remained law for nearly two centuries, and the longer parliamentary term has been amply justified.⁴¹ The real effect of the measure was to produce a great irregularity in the duration of parliaments, and the times of holding elections. Here, as in so many other departments of the English system,

⁴¹ An unsuccessful attempt was made in 1734 to repeal the septennial act. Aside from this the opposition to the measure has been insignificant. One of the demands of the Chartists was for annual parliaments, *i.e.*, annual parliamentary elections. Disraeli in his early career favored triennial parliaments. "I wished to break the strength of the Whigs by frequent elections, and by frequent appeals to a misgoverned people; therefore I advocated a recurrence to those triennial parliaments which it was once the proud boast of the Tories to advocate." Monypenny, *Life of Disraeli*, I, p. 283.

usage has supplemented the written law, and elections have been set, not by the termination of parliament by statute, but by the issues of the time which have created genuine occasions for appeals to the nation.

It was during the crisis of 1910-11 in British politics that the septennial act was overthrown and a new maximum limit of five years established. The program of the dominant party in this whole controversy over the parliament bill may well seem extraordinary to the student of politics who recognizes in the English people a high capacity for political development. Here was a radical alteration of the British constitution, a step towards single chamber legislation, opposed by an important element in the nation both because the measure itself was repugnant to them, and because the deal of the ministry with the Irish Nationalists made it certain that the new parliamentary device would be used to enact a party policy—home rule. This constitutional alteration was not passed in a strictly parliamentary way, but was forced through under the threat to create enough peers to pack the upper house with an artificial majority, a procedure which could certainly have no justification in a scientific parliamentary system. The measure itself, when once passed, rejected the perfectly logical program of reforming the upper chamber,⁴² abandoned the principle of a referendum, and set up the clumsy plan of overriding the lords' veto by three successive passages of a bill within two years. The intensity of the opposition to this revolutionary change, the stormy scenes which the government had to face, and the determined devotion of the "die-hards" who insisted upon resistance to the last ditch, gave evidence of the violent upheaval in political life which the parliament act occasioned. It is hardly to be expected that the new process of legislation will have any permanency, or even that its supporters will be pleased with the manner of its operation in practice.⁴³

⁴² In the preamble the ultimate purpose of reforming the house of lords was avowed, but this was an indefinite postponement of a policy upon which enlightened sentiment had been focusing for years.

⁴³ See A. L. P. Dennis, *The Parliament Act of 1911*. *AMERICAN POLITICAL SCIENCE REVIEW*, VI, pp. 194-215, 386-408.

The ministry could, of course, answer that the lords had ignored the well established limits on their power, that this "burial board of reforms" must no longer be allowed to thwart the popular will, that a permanently conservative and notoriously inefficient body of law-makers was a standing menace, and that so salutary an end might justify the most questionable means. Their position was markedly strengthened by their consultation of the people in the December, 1910 election—a shrewd move in Asquith's game—and they could well plead that the government was under a "mandate" to enact this constitutional reform. They could further show that there was no intention of abusing the power which the act would confer upon them. But even so, the unscientific manner of approach to their reform could not but be painful, and some concessions on their part would certainly be expected.

The shortening of parliamentary duration was a rather obvious concession which the Asquith government offered as a sort of palliative against the drastic provisions of the parliament bill. It was included by Campbell-Bannerman in his draft of 1907, and was referred to by Home Secretary Churchill as a "necessary and inseparable" part of the reform. Now that the house of commons was to be freed from the absolute veto of the lords it was considered essential that the term of its members should be shortened in order to draw them closer to the electorate, lest they should "outstay their mandate."⁴⁴

In April, 1910 this policy of five-year parliaments was extensively debated as a part of the Asquith resolutions.⁴⁵ The opposition emphasized the ill effect of more frequent elections in increasing the power of the cabinet and the caucus as party agents, and in so enhancing the cost as to discourage candidates of slender means, but it was pointed out that even under the septennial act there was no security against frequent elections, and that the average duration since the reform bill had actually been slightly over four years. Some arguments were advanced in favor of fixity of tenure, establishing five years as a rigid par-

⁴⁴ Asquith, in 21 *H. C. Deb.*, 5th ser., c. 1749.

⁴⁵ 16 *H. C. Deb.*, 5th ser., cc. 1493-1526.

liamentary term, but this was aside from the question, and such a law would seem to be out of harmony with the essential character of the parliamentary system which allows for elections whenever political issues demand them. In general the debate was of minor significance, as many who normally opposed the government were content with this concession. When the resolution was put "That it is expedient to limit the duration of parliament to five years," the division showed 334 ayes and 236 noes.⁴⁶ Of course the vote at this stage served merely to place the Liberal party on record as favoring five-year parliaments as a feature of their new scheme.

In another year the Asquith resolutions had become the parliament bill. Though this measure contained a clause limiting the parliamentary term to five years, yet, in view of the sweeping power which the bill as a whole gave to the house of commons, this provision seemed an insufficient guarantee to some of the leaders of the opposition. Hence we find Lord Avebury presenting an amendment excluding from the new legislative procedure any bill to extend the maximum duration of parliament beyond five years.⁴⁷ By this amendment the house of commons would be prevented from prolonging its existence by its independent action. Avebury admitted the intention of the government to adhere to the five-year limitation, but doubted whether it would be able to resist the pressure of circumstances. In this connection he referred to an historic occasion when the house of commons and the army destroyed the house of lords—their next step was to prolong their existence indefinitely.

Though the government was not contesting this amendment, yet Lord Morley spoke squarely against it. The actions of the Long Parliament, he thought, passed in times of tremendous civil and military confusion, should not even be mentioned as a possible precedent. "You might as well quote Barebones parliament as a reason why there should be no parliament at all." He was surprised that the noble lord should suppose the house of commons so indifferent to self-respect and to popular opinion as

⁴⁶ 16 *H. C. Deb.*, 5th ser., c. 1526.

⁴⁷ 9 *H. L. Deb.*, 5th ser., cc. 6-7. July 3, 1911.

to prolong its own existence. He was afraid that the amendment could not be accepted.

The Unionist floor leader, Lord Lansdowne, in answering Lord Morley declared that His Majesty's governments were not always free agents, as on occasion they were expected to "toe the line." Might not a critical moment arise when, "not of their own free will, but under the coercion of their supporters," they might be induced to adopt a proposal of this kind? At any rate, if the noble viscount thought the thing so inconceivable, there would surely be no great harm in accepting the amendment without further to-do. The home secretary's statement that the shorter duration was an essential feature of the government's plan had put the thing on a pedestal of its own.⁴⁸ And would the noble viscount remember how completely any extension of the duration of parliament would modify the conditions of this bill? The prime minister had explained that under the quinquennial system the full advantages of the new parliamentary device were possible only for measures introduced during the first two or three years of a given session. But if the duration should become six or seven years, the whole basis of the settlement would be fundamentally altered.

After some further debating the amendment was agreed to, and the parliament act as finally passed not only declared that "five years shall be substituted for seven years as the time fixed for the maximum duration of parliament under the septennial act," but rendered this limitation unalterable by the exclusive action of the commons and the king. If self-denying laws may be regarded as safeguards, here was an effective check against any serious abuse of that ultimate omnipotence which the new legislation was conferring upon the lower chamber.

On January 31, 1916 the duration feature of the parliament act would first have become applicable, thus forcing a general election at a critical period of the great war, when the Irish crisis, the struggle over conscription, and the lack of conspicuous success in the conduct of the war were embarrassing the coalition

⁴⁸ 29 *H. C. Deb.*, 5th ser., cc. 999, 1094-1095.

government. Under the circumstances, a general election (automatically set) was not wished by any considerable political group. A truce in the conflict of parties had been declared, and Liberals, Unionists, Irish Nationalists, Ulstermen and Laborites were coöperating for the supreme object of winning the war. Besides a dread of the uncertainty and upheaval attending a political contest, there was the feeling that an election conducted in the absence of so vast a number of the voters would be unrepresentative.⁴⁹ That some sort of measure for suspending the operation of the parliament act would pass without substantial opposition was therefore to be expected.

At this point, however, a complication arose over a highly controversial measure of the Liberal party, viz., the plural voting bill, which had twice passed the House of Commons to be rejected each time by the lords. Had events remained normal, the Liberals could have carried their measure a third time in the same parliament, and it would thus have become law under the parliament act. But according to the "compact" of the coalition, "no controversial business should be pushed forward," while on the other hand, "nothing should be done to prejudice the interests of those who have been parties to former controversies."⁵⁰ Under this compact, the Liberals argued, the mere passage of

⁴⁹ The expedient of having the soldiers vote in the field seems not to have been considered at this time though it was debated in the following August. Many of the States, during our Civil War, had legislation on this subject. State constitutions often had to be amended as regards the manner and place of voting for state officers, but regarding presidential electors and congressmen the state legislatures could act. Either the ballot-box was taken to the soldier in the field, or someone in the home precinct cast the vote by proxy. Where there was no legislation on the subject, soldiers were sometimes furloughed to vote at home. Congress, of course, could pass a uniform law touching the matter as regards national elections, and indeed a provision permitting soldiers on duty on the Mexican border to vote in the November elections was presented this year as an amendment to the army appropriation bill, but the amendment failed, and absent soldiers may vote only where state laws permit it. On August 22, 1916, Lord Salisbury introduced in the British parliament a bill to permit soldiers at the front and in hospitals to vote, but the military leaders disapproved of the policy, and the government felt that the existing time was no occasion for such a fundamental alteration of the constitution. See J. H. Benton, *Voting in the Field, A Forgotten Chapter of the Civil War*. (Boston, 1915.)

⁵⁰ Lord Lansdowne in the House of Lords. 20 *H. L. Deb.*, 5th ser., c. 844.

time would work them injury as regards the plural voting bill, and a clause was therefore inserted (it should become a classic among the fictions of English law) providing that "section two of the parliament act, 1911, shall, in relation to any public bill passed by the house of commons after the passage of this act and during the continuance of the present parliament, have effect as if the session ended in September, 1914 and the session in which the bill is so passed were consecutive sessions."

This curious provision would make it conceivable, though perhaps not likely, that the bill to eliminate plural voting might become law during the life of the existing parliament. Voices of protest were emphatically raised, in parliament and out, at this "administering of oxygen to the plural voting bill,"⁵¹ but the Unionist leaders themselves (including Bonar Law and Lansdowne) agreed to it, and the clause was retained as a part of the parliament and registration act.

As to the length of the extension there was some vacillation. At first the cabinet planned to keep the existing parliament alive during the war and for a year and a half beyond its close. Then the idea grew of a twelve-months extension beyond January, 1916, while various other periods, both shorter and longer, were urged. As the debate waxed warm and criticisms (as for instance from the *Times* and Sir Edward Carson) fell heavily upon the ministry, the desirability of conciliation became apparent, and Asquith announced that an extension of eight months would serve as a reasonable compromise, and in this form the act passed.⁵²

⁵¹ For examples of such protests, see London Daily *Times*, Dec. 4. 1915, p. 9; Dec. 9, p. 9; Dec. 10, p. 9 and p. 12. For Carson's views, see *Times*, Dec. 13, p. 9.

⁵² Parliament and Registration Act. 1916, 5 & 6 Geo. V, ch. 100. 27 Jan. 1916. Section 2 of the Act continued in force the existing register of electors until parliament should provide special registers, or otherwise direct. The intention of the government was to provide special registers in time for the next general election, enabling soldiers and sailors to qualify and be allocated to particular constituencies. Provision was made in Section 3 for compensating Irish officers for temporary loss of emoluments. For the debates see 76 *H. C. Deb.*, 5th ser., cc. 1946-2028; 77, cc. 59-87, 520-536; 20 *H. L. Deb.*, 5th ser., cc. 819-850; 931-945.

The existing parliament would thus be kept alive until the end of September, 1916, but as a general election was not even then contemplated a further extension became necessary in August. Plans for altering the franchise to suit the principle of "fit to fight, fit to vote," and to allow for polling at the front were urged but wisely dropped, and an act was carried on August 23 which extended the life of parliament for seven months—that is, to the end of April, 1917. The franchise was to remain unchanged but a new register was to be prepared so as to preserve the vote for any electors within the country who might be absent from home on war duty. An amendment provided that if a dissolution should occur before the new register could be put into force the parliament elected on the old basis should not last longer than two years. In a significant speech Mr. Asquith "assumed" that a general election in time of war would be a calamity. Neither France nor Italy, he said, contemplated such a contingency, and neither ought Britain to do so.⁵³ This plainly indicated that another extension would be made if the war were still continuing in April. Throughout the debate the

⁵³ It may be of value to note recent action in other countries touching war-time elections. The parliamentary election of December 19, 1915 in Greece showed how unrepresentative an election (even in a neutral state) can be in the midst of a war. The followers of Venizelos absented themselves from the heavily-guarded polling places, and less than a third of the normal vote was cast. To avoid an election in 1916 in Canada, the British North America Act was recently amended so as to extend the term of the Dominion Parliament one year. This was done in response to an address from the Canadian to the British Parliament. (An Act to amend the British North American Act, 1867.—1 June 1916. 6 & 7 Geo. V, cap. 19.) In France there will be no elections either to the Senate or to the Chamber of Deputies until the close of the war. The law reads: Les opérations de revision des listes électorales pour l'année 1915 sont ajournées jusqu'à la cessation des hostilités. Pendant la même période et jusqu'à ce qu'une loi spéciale ait autorisé la convocation des collèges électoraux, il ne sera procédé à aucune élection législative départementale, communale ou consulaire. *Journal officiel de la république française*, Dec. 25, 1914, p. 9338. Furthermore in 1915, the elections of various local and colonial officers of the French government were suspended until a date to be set after the war. *Journal Officiel*, pp. 113, 2147, 2430, 3794, 7031. Moreover, in 1915, acts of the British parliament had been passed to render unnecessary the reelection of members of the house of commons on acceptance of office (5 and 6 Geo. V, ch. 50), and to postpone elections of local authorities (5 and 6 Geo. V, ch. 76).

prime minister manifested indifference as to the length of the extension, but thought that some date should be fixed even though it might later be set aside.⁵⁴

At first sight the legislation of 1916 might seem an undoing of an essential feature of the parliament act of 1911, for the shortening of parliament had been intended as an offset to the increased power of the lower house. It is too early to conclude, however, that the permanent shortening of parliament ceases to exist as a safeguard. The emergency measures of the present year are but temporary, and serve not to override a safeguard, but to get rid of a hindrance. Moreover the lords, who by the Avebury amendment of 1911 had become the special guardians of this portion of the constitution, agreed to the extension, so that no menace of single chamber legislation seems to be involved.

In glancing over the acts we have studied, it is striking to observe how great constitutional changes have incidentally left their impress upon legislation touching the duration of parliament. During the violent upheaval of the Puritan revolution, when the whole constitution was being thrown into the scrap heap by the leaders of the parliament and the army, a triennial act was produced which, by its compulsory clauses, made the process of summoning parliament independent of the crown. In the full swing of the royalist reaction an obliging parliament repealed the obnoxious statute, adding a clause politely beseeching that parliaments be summoned at least once every three years. After the crisis of the Whig revolution had been faced and passed, and the popular will expressed through parliaments had been vindicated at the expense of the prerogative, the triennial act of 1694, with the reluctant royal consent and with a revenue bill as its companion, typified the new supremacy which parliament had achieved. These three measures were by-products of controversies that concerned the constitutional relations between parliament and the crown. In the reign of the first George, however, royalty was without force, while under the

⁵⁴ My chief source for this recent legislation is the London Daily *Times*.

fifth George royalty had long been reduced to the position of a "glorified rubber stamp," and England was, as Tennyson said, a "crowned republic." The acts of 1716 and 1911, therefore, did not concern the position of the king with reference to parliament, but the position of parliament in relation to the people and also to parties, for party government was now the controlling factor in public affairs. The septennial act, passed, as it were, under the party lash, and inspired by almost purely partisan motives, appropriately represented the dominant influence in modern politics. Then finally, the quinquennial provision of 1911, an important feature of a radical constitutional alteration, took into view the relation of lords to commons, and of party administration to the people, and registered an unwillingness to extend too far the authority of a party cabinet supported by an obedient following in the popular house. Though temporarily set aside in a world-shaking war, it is to be presumed that this measure still has vitality.

All such statutes are conditioned by the fundamental character of the English constitution, which, after all does not contemplate a strictly constitutional, but rather a parliamentary, government, inasmuch as no constitutional convention, (or similar authority representing the *state* as distinguished from the *government*), can interpose its will between the parliament and the people. As Mr. Asquith declared in 1911: "The moment you except from the omnipotence of parliament certain categories of legislation, that moment you are introducing of necessity an outside authority to determine whether or not any particular act of parliament is valid."⁵⁵ This is, in truth, the crux of the whole question. Whenever the constitution is to be altered, even as regards parliament itself, the agency for making the alteration is the parliament. Though in a sense the creature of the constitution, the parliament is also the creator and amender of the constitution.

⁵⁵ London Weekly *Times*, July 3, 1911, p. 8.